Lowndes

News

4 questions with Lowndes law firm partner Michael Gibbons

Media Mention
The Orlando Business Journal
03.07.2019

Related Attorneys

Michael R. Gibbons

Michael Gibbons knows it's a complicated business when dealing with the legal aspects of real estate and construction.

The former assistant state attorney and now partner of Orlando law firm Lowndes is an expert in that area, representing property owners, developers, general contractors, and design and subcontracting professionals in asserting and defending a variety of claims through arbitration and litigation in construction-related cases.

Gibbons, who also is a LEED Green Associate certified through the U.S. Green Building Council, has represented parties involved in prominent Central Florida projects, such as the Waldorf Astoria Orlando near Walt Disney World, the Verizon Finance Center in Lake Mary, the Dr. Phillips Center for the Performing Arts in downtown Orlando and the Omni Orlando Resort at ChampionsGate.

Gibbons chatted with *Orlando Business Journal* about real estate and construction law, some of its challenges and offered his advice. Here's what he shared:

When a real estate dispute arises, is litigation the only option? No. Many real estate contracts require parties to mediate the dispute prior to litigation. At a mediation, a neutral mediator meets together and separately with the parties, and attempts to facilitate a settlement or resolution to the dispute. An arbitrator, rather than a judge or jury, applies the law to adjudicate the issues. In many cases, a real estate contract may provide the dispute resolution must be in arbitration, not litigation.

What's the difference between real estate and construction law? Real estate law typically involves the preparation and negotiation of purchase and sale agreements for particular properties, and handling the related closing on the sale of the land or loan. Real estate law includes land-use law, where lawyers interface with local government officials and staff on behalf of property owners to modify existing land-use restrictions.

Construction lawyers, on the other hand, prepare and negotiate contracts with design professionals — such as architects and engineers — and construction contracts with general contractors and construction managers. Construction attorneys frequently handle construction-related disputes in arbitration or litigation, including disputes relating to breach of contract, project delays, as well as warranty, defect, indemnity and lien claims.

What are some common situations that may result in litigation? Claims for breach of contract are common in both real estate and construction contract settings. Basically, one party in a contract alleges the other party has breached the contract by, for example, failing to make payments, complete the job, deliver the land or building in the condition set forth in the contract, or by breaching a warranty related to the land or construction. The discovery of latent or hidden defects in the improvements after a sale or construction completion is a frequent source of litigation and claim activity.

Why is hiring a real estate attorney in the best interest of a client? A legal professional typically is an important part of rounding out a real estate-related transaction team. Whether buying or selling real estate, there are important legal terms and conditions that only a licensed and experienced real estate or construction law attorney properly can advise and counsel a client on. Hiring a legal professional at the inception of a real estate or construction contract allows a party to achieve proper transactional front-end alignment and to avoid crashing on the rocks of poorly understood contractual terms and conditions.